

# ATOZ ALERT

---

## Introduction of a new procedure of administrative dissolution without liquidation

20 October 2022

On 18 October 2022, the Luxembourg Parliament adopted the law creating a procedure of administrative dissolution without liquidation (the “**Law**”).

### Purpose and scope of the Law

The Law introduces a simplified procedure in order to get rid of dormant and empty entities in a short time frame and with limited costs. The aim is to provide an alternative to the burdensome judicial liquidation procedure of article 1200-1 of the law of 10 August 1915 on commercial companies, as amended (the “**Company Law**”).

To fall within the scope of the Law and be subject to the procedure of administrative dissolution without liquidation three cumulative conditions must be met:

- The company falls under the provisions of article 1200-1 (1) of the Company Law (any entity which pursues activities contrary to criminal law or which seriously contravenes the provisions of the Luxembourg Commercial Code or the laws governing commercial companies including these laws governing authorisations to do business)
- The company has no assets
- The company has no employees.

The Law does not provide a definition of “asset”, therefore we may anticipate further discussions and clarifications around this criteria.

The following entities subject to supervision are excluded from the scope of the Law (the below list is not exhaustive):

- Specialised investment funds (*fonds d’investissement spécialisés*, “**SIF**”)
- Investment companies in risk capital (*sociétés d’investissement en capital à risque*, “**SICAR**”)

- Collective investment funds (*organismes de placement collectif*, “OPC”)
- Reserved alternative investment funds (*fonds d’investissement alternatifs réservés*, “RAIF”)
- Credit institutions and financial institutions
- Insurance and re-insurance companies.

## The procedure

The procedure of administrative dissolution without liquidation is as follows:

- Companies eligible to the administrative dissolution without liquidation are identified by the public prosecutor (*procureur d’Etat*)
- A request is sent by the public prosecutor to the manager of the Luxembourg Trade and Companies Register (*gestionnaire du Registre du Commerce et des Sociétés*, “RCS”) to ask it to proceed with the opening of the procedure
- The RCS must (i) open the dissolution within 3 days following the request and (ii) inform the company by registered mail sent to the registered office of the company
- The RCS publishes the decision of opening of the administrative dissolution without liquidation with the *Recueil Electronique des Sociétés et Associations* (“RESA”) (the “Publication”)
- The Publication details:
  - The name, registration number and address of the company
  - The reasons for the opening of the procedure
  - The ability for the company to make an appeal of the decision within one month following the Publication
- From the date of the Publication, the RCS must verify that the company has no more assets nor employees and then informs the public prosecutor of its verifications
- If the conditions are met, the public prosecutor asks the RCS to carry on the procedure / If the conditions are not met, then the procedure is stopped and a publication is made in this respect
- The procedure of administrative dissolution without liquidation should be closed within 6 months following the Publication
- The decision to close the procedure of administrative dissolution without liquidation leads to the dissolution of the company
- The decision of closure of the procedure of administrative dissolution without liquidation is published with the RESA.

## Do you have further questions?



**RICHARD FAUVEL**

Principal,  
ATOZ Services

[richard.fauvel@atoz-services.lu](mailto:richard.fauvel@atoz-services.lu)

T +352 26 9467 261